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11
 12 **UNITED STATES DISTRICT COURT**
 13 **CENTRAL DISTRICT OF CALIFORNIA**

14 SECURITIES AND EXCHANGE
 15 COMMISSION,

16 Plaintiff,

17 vs.

18 DIVERSIFIED LENDING GROUP, INC.;
 APPLIED EQUITIES, INC.; and BRUCE
 19 FRIEDMAN,

20 Defendants,

21 and

22 TINA M. PLACOURAKIS,

23 Relief Defendant.

Case No. CV 09-01533 R (SSx)

**REPLY OF PLAINTIFF SECURITIES
 AND EXCHANGE COMMISSION TO
 DEFENDANT BRUCE FRIEDMAN'S
 RESPONSE TO RECEIVER'S THIRD
 REPORT**

No Hearing Scheduled

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1 Plaintiff Securities and Exchange Commission (“Commission”) submits this
2 brief reply to the Response of Defendant Bruce Friedman (“Friedman”) Receiver’s
3 Third Report (Docket No. 189) (“Response”) in order to correct the record.
4 Friedman’s Response consists entirely of his own self-serving declaration, which
5 unfortunately contains clear misstatements and non-sequiturs evidencing Friedman’s
6 continuing effort to mislead the investors he victimized.

7 Friedman argues that he was not running a Ponzi scheme because he placed
8 substantial amounts of misappropriated investor funds in “real estate and other
9 investments.” (Response, ¶ 3.) But this argument misses the point.
10 “The term Ponzi scheme refers to a fraudulent scheme in which, rather than paying
11 investor returns from investment income, initial investors are paid off with new
12 contributions from additional investors.” *United States v. Treadwell*, 593 F.3d 990,
13 993 n.2 (9th Cir. 2010), *citing* Black’s Law Dictionary 1198 (8th ed. 2004). Contrary
14 to what he promised his investors, Friedman “invested” in worthless or highly
15 speculative ventures or properties – many of them owned by friends or family
16 members – that generated no meaningful returns.¹

17 Indeed, the Receiver’s accounting shows that these so-called investments *never*
18 generated enough income to cover the purported interests payments Friedman
19 disbursed to certain investors in order to keep the fraudulent scheme alive – much less
20 the \$41 million Friedman skimmed off the top for himself, family members, and other
21 insiders. *See* Receiver’s Third Report (Docket No. 185) at page 4. As a result, the
22 *only* source from which Friedman could pay promised returns to existing investors
23 was the funds received from new investors. As the Receiver correctly notes, this is

24
25 ¹ Friedman opines that *some* of the money was directed to investments “have
26 the potential” to *someday* generate unspecified returns. (Response, ¶ 3.) The
27 Ninth Circuit’s dismissal of similar arguments in *Treadwell* is apt: “In this defense
28 one hears echoes of Charles Ponzi himself, who argued at his sentencing hearing
that he ‘absolutely believed that if he was not arrested he would have paid dollar
for dollar and be a millionaire standing here now.’” *Treadwell*, 593 F.3d at 994 n.
4, *citing* Mitchell Zuckoff, *Ponzi’s Scheme* 175, 314 (2005).

1 the hallmark of a classic Ponzi scheme.

2 Friedman also claims that nearly \$5 million of the money he stole was given to
3 “reputable charities.” (Response, ¶ 5.) Donating to charity is generally laudable.
4 Misappropriating and donating other people’s money without their permission to
5 enhance one’s own standing in the community and create a self-serving illusion of
6 respectability, however, is not. Moreover, even Friedman’s own Response concedes
7 that the primary beneficiaries of his “charity” were himself and his children.
8 (Response, ¶ 6.) *See also*, Receiver’s Third Report at page 8 (describing Receiver’s
9 efforts to recover \$10 million transferred to Friedman’s relatives).

10 The Commission respectfully urges the Court to disregard Friedman’s
11 inaccurate, self-serving statements and to approve the Receiver’s Third Report in its
12 entirety.

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14 Dated: April 13, 2010

Respectfully submitted,

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16 /s/ John M. McCoy III
17 John M. McCoy III
18 Attorney for Plaintiff
19 Securities and Exchange Commission
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PROOF OF SERVICE

I am over the age of 18 years and not a party to this action. My business address is:

[X] U.S. SECURITIES AND EXCHANGE COMMISSION, 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036-3648

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On April 13, 2010, I caused to be served the document entitled **REPLY OF PLAINTIFF SECURITIES AND EXCHANGE COMMISSION TO DEFENDANT BRUCE FRIEDMAN'S RESPONSE TO RECEIVER'S THIRD REPORT** on all the parties to this action addressed as stated on the attached service list:

[X] **OFFICE MAIL:** By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

[] **PERSONAL DEPOSIT IN MAIL:** By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Los Angeles, California, with first class postage thereon fully prepaid.

[] **EXPRESS U.S. MAIL:** Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los Angeles, California, with Express Mail postage paid.

[] **HAND DELIVERY:** I caused to be hand delivered each such envelope to the office of the addressee as stated on the attached service list.

[] **FEDERAL EXPRESS:** By placing in sealed envelope(s) designated by Federal Express with delivery fees paid or provided for, which I deposited in a facility regularly maintained by Federal Express or delivered to a Federal Express courier, at Los Angeles, California.

[X] **ELECTRONIC MAIL:** By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

[] **FAX:** By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

[X] **(Federal)** I declare under penalty of perjury that I am a member of the bar of this Court and that the foregoing is true and correct.

Date: April 13, 2010

/s/ John M. McCoy III
John M. McCoy III

1 **SEC v. DIVERSIFIED LENDING GROUP, INC., et al.**
2 **United States District Court – Central District of California**
3 **Case No. CV 09-01533 R (JTLx)**
4 **(LA-3591)**

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